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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/813,537	03/29/2004	Alberto J. Martinez	42P18569	5340
8791 7590 10/31/2007 BLAKELY SOKOLOFF TAYLOR & ZAFMAN 1279 OAKMEAD PARKWAY SUNNYVALE, CA 94085-4040			EXAMINER VO, THANH DUC	
			ART UNIT 2189	PAPER NUMBER
			MAIL DATE 10/31/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/813,537

Applicant(s)

MARTINEZ, ALBERTO J.

Examiner

Thanh D. Vo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address.--

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 13 September 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Response to Amendment*

1. This Office Action is responsive to the Amendment filed on September 13, 2007. Claims 11 and 14 have been amended. Claims 1-20 are presented for examination. Claims 1-20 are pending.

### *Claim Rejections - 35 USC § 112*

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 1-10, and 17-20 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

As per claims 1, 5, and 8, the specification fails to disclose the method of "preventing a read of the pointer from the known location by any operating system supported processor, **permanently**" or "prevent a read of the pointer by any operating system supported process, permanently, when the pointer is in a protected mode".

It's further noted that on page 4, paragraph 0014, the specification discloses that any application that accesses data that is designated to be protected may be supported. Therefore, the limitation above contradicts with the disclosure of the present invention

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because the disclosure actually discloses that the data can be access if the application has the right to access even it is in a protected mode.

All dependent claims are rejected as having the same deficiencies as the claims they depend from.

Appropriate correction is required.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 11-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As per claims 11 and 14, the term "highest" in the claims is a relative term which renders the claim indefinite. The term "highest" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

All dependent claims are rejected as having the same deficiencies as the claims they depend from.

Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 11-16 are rejected under 35 U.S.C. 102(a) as being anticipated by Watt et al. (hereinafter Watt) of U.S. Publication No. US 2004/0148480 A1.

As per claim 11, Watt substantially disclosed a device comprising:

means (DMA) for receiving a request from an operating system supported process for a location of data (page 4, paragraph 0102), the operating system supported process having a highest level of access to system resources (page 5, paragraph 0109);

means for determining a protected status of the data (See Fig. 55 and its description on paragraphs 0527-0528 of how the flag is used to indicated if the data is secured or non-secured, and page 13, paragraph 0279 of how the core accesses those data, therefore it has to have a mean to determine the secured mode); and

means for returning a predetermined signal if the data has a protected status.

See Fig. 57, blocks 2730, 2735, and 2740. *The access is aborted as soon as it is trying to access a secured data and it is a predetermined (fixed) value in responsive to the read request.*

As per claim 12, Watt substantially disclosed a device further comprising:  
means for storing an indicator of the protected status. See Fig. 55, and page 13, paragraph 0279. *The mean of storing an indicator is inherited since an indicator is a variable that requires a storage area such as a register to hold the value.*

As per claim 13, Watt substantially disclosed a device, further comprising:  
means for returning a location of the data if the data has an unprotected status.  
See page 1, paragraph 0014.

As per claim 14, Watt substantially disclosed a machine readable medium having instructions stored therein which when executed cause a machine to perform a set of operations comprising:

receiving a request from an operating system supported process for descriptor table base address (see page 1, paragraph 0015), the operating system supported process having a highest level of access to system resources (See page 5, paragraph 0109);

determining if the descriptor table base address register is set in a protected mode data (See Fig. 55 and its description on paragraphs 0527-0528 of how the flag is used to indicated if the data is secured or non-secured, and page 13, paragraph 0279 of how the core accesses those data); and

returning a fixed value if the register is in the protected mode. See Fig. 57, blocks 2730, 2735, and 2740. *The access is aborted as soon as it is trying to access a secured data and it is a predetermined (fixed) value in responsive to the read request.*

As per claim 15, Watt further disclosed a machine readable medium having instructions stored therein which when executed cause a machine to perform a set of operations further comprising:

storing an indicator of the protected mode. See Fig. 55, and page 13, paragraph 0279. *The mean of storing an indicator is inherited since an indicator is a variable which requires a storage area such as a register to hold the value.*

As per claim 16, Watt further disclosed a machine readable medium having instructions stored therein which when executed cause a machine to perform a set of operations further comprising:

returning the descriptor table base address if the data is not in the protected mode. See page 1, paragraph 0014.

### ***Response to Arguments***

5. Applicant's arguments filed on September 13, 2007 in response to Examiner's argument on claims 1, 5, and 8 have been fully considered but they are not persuasive.

On page 7 of the Remarks, Applicant references to the paragraph 0014 and particularly paragraph 0027 citing that, "some other types of data may be further

protected in which “any application or device” is prevented from accessing the base address register” to support the limitation “preventing a read of the pointer from the known location by any operating system supported process, permanently” in claims 1, 5, and 8. Applicant then concludes, “While ring 0 program may gain access to certain types of protected data, other types of protected data remain permanently protected”.

Examiner respectfully disagrees with Applicant’s reasoning and understanding of the disclosure of the current invention.

The specification of the current invention only discloses that “when the base address register is in a protected mode then **it may prevent** any application or device from reading the base address register” (See paragraph 0027). Therefore, the specification discloses that “it **may prevent** any application or device from reading the base address register” rather than positively states or discloses that “it prevents any application or device from reading the base address register, **permanently**”. In conclusion, the limitation cited is not substantially disclosed, described, or implied by the specification of the current invention.

6. Applicant's arguments with respect to claims 11-16 have been considered but are moot in view of the new ground(s) of rejection necessitated by Applicant's amendment.

7. In accordance to the Guidelines for the Examination of Patent Applications Under the 35 U.S.C 112, paragraph 1, “Written Description” Requirement (MPEP 2163 [R-5]) the Examiner has done a thorough review of the prior art and examination on the merits



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for compliance with 35 U.S.C 102 and 103 statutory requirements and no prior art is currently found for the subject matter ~~newly added into~~<sup>in</sup> claims 1, 5, and 8.

REC  
10/24/07

### **Conclusion**

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thanh D. Vo whose telephone number is (571) 272-0708. The examiner can normally be reached on M-F 9AM-5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Reginald G. Bragdon can be reached on (571) 272-4204. The fax phone

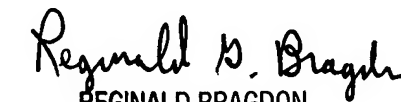
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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



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